

J. James Learned
Buchhammer and Kehl, P.C.
1821 Logan Avenue
P.O. Box 568
Cheyenne, WY 82003-0568
(307)634-2184
fax (307) 634-2199

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

VISHVA DESAI and PHILIP J. CHARVAT,)
on behalf of themselves and others similarly)
situated,)

Plaintiffs,)

vs.)

ADT SECURITY SERVICES, INC.)

Plaintiff,)

Docket No. 11-cv-1925
Case Pending in N.D. Ill

**RESPONSE AND OBJECTION TO SUBPOENA TO PRODUCE
DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT
INSPECTION OF PREMISES IN A CIVIL ACTION**

COMES NOW, EngageTel, Inc., by and through undersigned counsel and pursuant to Rule 45(c)(2)(B), F.R.C.P., tenders its objection to the *Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action* as follows:

1. The responding party further objects to the request to produce sensitive commercial information. Certain requests call for the disclosure of proprietary information that the responding party and its clients are contractually obligated to protect as private.

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2. The responding party provides services to telemarketers in the form of a "caller name service" and collecting "Do Not Call" requests. The responding party provides a block of telephone numbers to clients for their use. The numbers are virtual and cannot be linked to a particular telephone line or a particular call.

3. While preserving the objections herein and others legally available, and without waiving the same, the responding party tenders the attached documents in response to Plaintiff's *Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action*.

4. There are no other documents available to the responding party that are responsive to Plaintiff's subpoena.

DATED this 21st day of April, 2011.

ENGAGETEL, INC.

BY: 

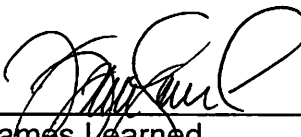
J. James Learned, #6-4150
BUCHHAMMER AND KEHL, P.C.
1821 Logan Avenue
P.O. Box 568
Cheyenne, WY 82003-0568
(307) 634-2184
Fax (307) 634-2199

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded as noted below, this 27th day of April, 2011;

Alexander H. Burke
Burke Law Offices, LLC
155 N. Michigan Ave., Ste 9020
Chicago, IL 60601

<input type="checkbox"/>	Facsimile
<input checked="" type="checkbox"/>	U.S. Mail
<input type="checkbox"/>	Overnight Courier
<input type="checkbox"/>	Hand Delivery



J. James Learned

**ENGAGETEL, INC.
RESPONSE TO SUBPOENA
1, 2, & 5**

 **COPY**

EngageTel

EngageTel Inc.
2710 Thomas Ave Suite 913
Cheyenne, WY 82001
Telephone: (888) 343-5008
Fax contract to:
Facsimile: (877) 687-4452

SCANNED

Engage RevenueShare Master Services Agreement

This Master Services Agreement is dated as of the 1st day of September, 2009 ("Effective Date") and is by and between EngageTel Inc. ("Company") having its principal place of business at 2710 Thomas Ave, Ste. 913, Cheyenne, WY 82001, and EMI Inc. ("Customer"), having offices at 14281 Spring Vista Lane, Chino Hills, CA 91709.

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, EngageTel and Customer agree as follows:

Section 1. TERM AND TERMINATION FOR CAUSE AND CONVENIENCE

(a) The initial term of this Agreement shall be (1) one year, beginning from the initial monthly payment to Customer. The Agreement shall also automatically renew, for each annual term, thereafter, unless either party informs the other party within 30 days of the anniversary date, in writing.

(b) Company and/or Customer may terminate this agreement with or without cause immediately upon notification of the other party. Upon termination, all services, use of services and compensation will cease immediately. If after 24 hours of termination, or a request to remove specific telephone number(s) by Company, Customer continues to utilize telephone numbers, Customer information may be placed into the calling name field of CNAM on telephone numbers assigned to Customer, at the discretion of EngageTel.

Section 2. SERVICES

Company intends to make available its Engage RevenueShare to Customer solely for its use.

Section 3. ENGAGETEL'S RESPONSIBILITIES

(a) EngageTel provides its services through various network and database facilities. [REDACTED] As part of its service, EngageTel will manage the "calling name" and/or calling number that will be passed to terminating carriers for calls originated via telephone numbers that EngageTel has assigned. EngageTel will also manage any transactions wherein the CNAM information is passed between carriers or CNAM database organizations.

(b) [REDACTED]

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Section 3. ENGAGETEL'S RESPONSIBILITIES Continued

(c) EngageTel stipulates that it does not have access to Customer's calling data. Should Customer send EngageTel calling data for analysis, EngageTel will not share that data with any 3rd party.

Section 4. CUSTOMER RESPONSIBILITIES AND ACCEPTABLE USE

(a) Customer may request changes to Calling Name information or Forwarding Number to be manually implemented by EngageTel personnel by submitting a request to EngageTel by email at: customerservice@engagetel.com

(b) Customer acknowledges that EngageTel's revenue share does not provide and excludes local dial tone and usage, emergency (e.g. 911), intraLATA toll, interLATA toll, interstate toll, international toll, 700, 800, 900, collect, 3rd party, operator assisted, calling card, billed to services, or any other services that may result in charges being assessed to the Customer telephone numbers, as such numbers are provided through this Agreement, or to the Company, its local providers or its database providers. Customer also acknowledges that EngageTel's program cannot be utilized by Customer, its employees, its agents, its contractors or its authorized users in an attempt to avoid paying intrastate switched access charges, interstate switched access charges, international switched access charges and tariffs, or reciprocal compensation charges which are normally applicable.

(c) Customer also acknowledges and agrees that any attempt by the Customer, its employees, its agents, its sub contractors or its authorized users to use services provided under this Agreement to obtain any of the aforementioned non-provided and excluded services or in an attempt to avoid intrastate switched access charges, interstate switched access charges, international switched access charges and tariffs, or reciprocal compensation charges without providing the Company, or its partners, an opportunity to recover its costs, plus a reasonable profit, will result in the immediate termination of this Agreement with all compensations due the Customer being forfeited.

(d) Customer agrees to comply with all applicable local, state and federal rules and laws when using Engage RevenueShare Services, including, but not limited to, those rules and laws which may pertain to consumer fraud, obscenity, telemarketing and/or "no call" lists (e.g., Part 310 of the FTC's rules and Part 64 of the FCC's rules). Likewise, Customer warrants that it has obtained all government approvals, licenses, authorizations, consents or permits necessary to provide the services for which Customer will use EngageTel's assigned numbers. Customer agrees to indemnify and hold EngageTel, its local providers and its database providers harmless from any of Customer's actions, or actions of Customer's employees, agents, subcontractors and authorized users, which are not in compliance with any such, rules, laws, regulations or requirements.

(e) 

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Section 4. CUSTOMER RESPONSIBILITIES AND ACCEPTABLE USE (Continued)

(f) [REDACTED]

(g) The Customer agrees that use of EngageTel's RevenueShare, provided to the Customer pursuant to this Agreement, will be for the delivery of queries for outbound calls only, which outbound calls will be provided by and through the facilities of the Customer's local and long distance carrier of choice.

(h) The Customer agrees to provide EngageTel with a toll-free number or IP address to forward return calls to. In the event that a normal POTS number is provided for forwarding, Customer agrees to accept charges related to call forwarding, which will be deducted from their monthly compensation.

(i) Customer understands and acknowledges that by signing this agreement, they are assuming total responsibility for the control and use of all telephone numbers assigned to Customer by EngageTel.

(j) Customer understands and agrees that telephone numbers assigned to them will not be used to call Canada, Mexico, or anywhere outside of the United States.

(k) Customer acknowledges and agrees that EngageTel telephone numbers will not be misused in any manner that will cause carrier network saturation in a particular geographic region, whether it be outbound or inbound (return) calls.

(l) Customer understands and agrees that participation in calling practices that could be considered fraudulent or harassing to the general public are not acceptable. This includes, but is not limited to: false claims made in the broadcast message, excessive calling to individual telephone numbers, etc.

Section 5. NON-CIRCUMVENTION

EngageTel and Customer do hereby irrevocably agree not to circumvent, avoid, bypass, or obviate the other party, directly or indirectly, to avoid payment or fees or commissions, in any transaction with any corporation, client, contractor, provider, vendor, partnership or individual, disclosed by the disclosing party to the other party, in connection with any project, sale (or potential sale), contract, agency, distributorships, funding or any other transaction involving any consulting, sale of products or services, or addition, negotiations, re-negotiations, renewal, extension, amendments, new contract/agreements, parallel contracts/ agreements or third party assignments thereof. Further, during the term of this Agreement, and for a period of two (2) years following termination or expiration of the Agreement, Customer agrees they shall not, whether on their own or through or on the behalf of any other person or entity disturb or negatively affect the business relationship between EngageTel and any of its business relationships, including, but not limited to, telemarketing firms, call centers, LEC's, CLEC's, ILEC'S, IXC'S and sales agents, and customers.

Section 6. NO WARRANTIES

EngageTel makes no warranties or representation, express or implied, including any warranty of merchantability or fitness for a particular use, except those expressly set forth in this Agreement.

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Section 7. LIABILITY

(a) EngageTel's liability for any claim, loss or damage arising out of the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, errors, other defects, or representations by the Company, or use of these services or damages arising out of the failure to furnish the service whether caused by act or omission, shall be limited to the amounts owed Customer by EngageTel at the time such damages occur. Such allowances shall be the sole remedy of the customer and the sole liability of EngageTel.

(b) EngageTel will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages, or for any lost profits of any kind, to customer as a result of any service, equipment or facilities, or the acts or omissions or negligence of EngageTel's employees or agents. In any event, no action or proceeding against EngageTel shall be commenced more than three months after the service is rendered.

(c) EngageTel shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; any law, order, regulation, direction, action, or request of The United States government or of any other government, including state and local governments having or claiming jurisdiction over EngageTel, or of any department, agency, compensation, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or of any military authority; preemption of existing service in compliance with national emergencies; insurrections; riots; wars; unavailability of rights-of-way or materials; or strikes, lockouts, work stoppages, or other labor difficulties.

(d) EngageTel shall not be liable for any damages or losses due to the fault or negligence of the Customer, or Customer's authorized users or due to the failure or malfunction of Customer-provided equipment or facilities or the equipment or facilities of Customer's authorized users.

Section 8. INDEMNIFICATION

EngageTel shall be indemnified, defended and held harmless by the Customer, against any claim, loss or damage arising from Customer's use, or by the use of others authorized by the Customer, of services furnished under this Agreement, including, but not limited to: claims for libel, slander, invasion of privacy or infringement of copyright arising from the material, data, information, or other content transmitted via EngageTel's service; and patent infringement claims arising from combining or connecting the service offered by EngageTel with apparatus and systems of the Customer or others; all other claims arising out of any act or omission of the Customer or others, in connection with any service provided by EngageTel pursuant to this Agreement.

Section 9. NOTICE

Notices, under this Agreement, shall be sent in writing to the authorized representatives, identified by the parties, on the signature page of this Agreement.

Section 10. PRIOR AGREEMENTS; SEVERABILITY; COMPLETE UNDERSTANDING; MODIFICATION

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If any provision of this agreement is for any reason found to be unenforceable, the remainder of this Agreement will continue in force and effect. This Agreement CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT. Any and all prior or contemporaneous agreements, whether written, oral or otherwise, are hereby superseded and are null and void. No amendment of this Agreement shall be binding, unless it is in writing and signed by both parties

Section 11. CONFIDENTIALITY

The terms and conditions of this Agreement contain proprietary information pertaining to both EngageTel and Customer of a highly sensitive nature such that improper disclosure would expose each party to an unreasonable risk of harm from their competitors. Accordingly, the terms and conditions of this Agreement are to be held as strictly confidential among those employees and agents of both parties with a need to know such terms and conditions. The parties agree that impending or existing breaches in the confidentiality of this Agreement, or any of the terms and conditions herein, would cause the party to whom such confidential information pertains to irreparable injury for which it would have no adequate remedy at law, and agree that the aggrieved party shall be entitled to immediate injunctive relief prohibiting such breach(es) in confidentiality, in addition to any other rights and remedies available to it.

Section 12. ASSIGNMENT

Neither party shall assign its rights and obligations under this agreement without approval of the other Party, which approval shall not be unreasonably withheld.

Section 13. APPLICABLE LAWS

This Agreement shall be interpreted under the laws of the state of Wyoming.

Section 14. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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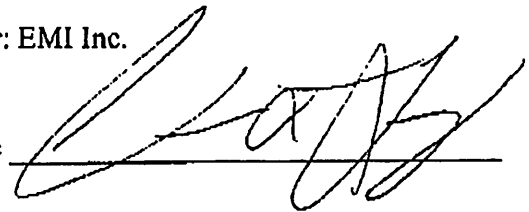
EngageTel

IN WITNESS WHEREOF, the parties have signed this Agreement as of this date.

Company: EngageTel Inc.

Customer: EMI Inc.

Signature 

Signature 

Printed Name: DENNIS CARLSON

Printed Name: Christopher Long

Title: PRESIDENT

Title: President

Date 9/1/09

Date 9/1/09

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**ENGAGETEL, INC.
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3, 4, & 7**

–Document “EMI ANIs, 3/16/2010” represents the numbers assigned to EMI, Inc.

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EMI ANIs, 03/16/2010

ANI

207-512-5075

207-512-5077

315-701-3354

315-701-3357

339-502-6550

339-502-6568

401-515-0265

401-515-0266

574-970-0866

574-970-0867

603-606-4286

603-606-4297

616-604-2080

616-604-2081

715-254-0275

715-254-0276

860-470-0014

860-470-0015

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–Document “EngageTelIVRReport_02262011” represents the numbers that requested to be put on a Do Not Call List

EngageTelIVRReport_02262011

8594020502
9788528167
2156808797
5027973209
5154501375
5154501375
2568999991
4797903337
9317439192
8108363352
3369848464
9782778286
5808890381
8033890275
6784519952
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3025881361
9787907076
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6622311123
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5149410537

EngageTelIVRReport_02262011

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3185880011

EngageTelIVRReport_02262011

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